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11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**
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14 JITRADE, INC., a California
15 Corporation;

16 Plaintiff,

17 vs.

18 CICINDELAE, INC. d/b/a ORANGE
SHINE, a California Corporation; DO
19 GI KIM, an individual; DESIGN OF
DK, INC. d/b/a CUBE PLUS and
20 CUBE INSTYLE, a California
Corporation; YONG WOO KIM, an
21 individual; and DOES 1-10, inclusive,
22

Defendants.
23

Case Number: 2:17-cv-4355

PLAINTIFF'S COMPLAINT FOR:
1. COPYRIGHT INFRINGEMENT
AND/OR
2. VICARIOUS COPYRIGHT
INFRINGEMENT AND/OR
3. CONTRIBUTORY COPYRIGHT
INFRINGEMENT

Jury Trial Demanded

24 Plaintiff JITRADE, INC. ("Plaintiff" or "JITRADE") by and through its
25 undersigned attorneys, hereby prays to this honorable Court for relief and remedy
26 based on the following:
27
28

INTRODUCTION

Plaintiff is a California-based company engaged in the apparel industry as a textile converter of imported and domestic fabrications. Plaintiff creates, or purchases and obtains, exclusive rights to unique two-dimensional graphic artworks for use on textiles and garments, and those textiles and garments are transacted primarily in the fashion industry. Plaintiff owns these designs in exclusivity and makes sales of products bearing these designs for profit. Plaintiff's business is predicated on its ownership of these designs and it spends a considerable amount of time and resources creating and obtaining top-quality, marketable and aesthetically-appealing designs. Customers of Plaintiff, including possibly DOE defendants named herein, take design samples with the understanding and agreement that they will only utilize Plaintiff to reproduce said designs should they wish to do so, and will not seek to make minor changes to Plaintiff's proprietary work to reproduce the same elsewhere, yet use those designs in furtherance of their business in violation of both their contractual agreement with Plaintiff and Plaintiff's copyrights. No other party is authorized to make sales of product bearing Plaintiff's proprietary designs without express permission from Plaintiff. This action is brought to recover damages for direct, vicarious and contributory copyright infringement arising out of the misappropriation of Plaintiff's exclusive designs by the Defendants, and each of them.

JURISDICTION AND VENUE

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C. § 101 *et seq.*
2. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331, 1338(a) and (b).

1 3. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(c) and 1400(a)
2 in that this is the judicial district in which a substantial part of the acts and
3 omissions giving rise to the claims occurred.

4
5 **PARTIES**

6 4. JITRADE, INC (“Plaintiff” or “JITRADE”) is a corporation organized and
7 existing under the laws of the State of California with its principal place of
8 business in the County of Los Angeles, at 3450 Wilshire Blvd. Suite 406, Los
9 Angeles, CA 90010.

10 5. Plaintiff is informed and believes and thereon alleges that Defendant
11 CICINDELA, INC. d/b/a ORANGE SHINE (“CICINDELA”), is, and at all
12 times herein mentioned was, a corporation organized and existing under the
13 laws of California and doing business in California, with its principal place of
14 business at 1015 Crocker St, STE S21, Los Angeles, CA 90021.

15 6. Plaintiff is informed and believes and thereon alleges that Defendant DO GI
16 KIM (“DO GI KIM”), is, and at all times herein mentioned was, a corporation
17 organized and existing under the laws of California and doing business in
18 California, with its principal place of business at 1015 Crocker St, STE S21,
19 Los Angeles, CA 90021.

20 7. Plaintiff is informed and believes and thereon alleges that Defendant DESIGN
21 OF DK, INC. d/b/a CUBE PLUS and CUBE INSTYLE (“DESIGN OF DK”),
22 is, and at all times herein mentioned was, a corporation organized and existing
23 under the laws of California and doing business in California, with its principal
24 place of business at 747 E 10th ST Unit 404, Los Angeles, CA 90021.

25 8. Plaintiff is informed and believes and thereon alleges that Defendant YONG
26 WOO KIM (“YONG WOO KIM”), is, and at all times herein mentioned was, a
27 corporation organized and existing under the laws of California and doing
28 business in California, with its principal place of business at 747 E 10th ST Unit

1 404, Los Angeles, CA 90021.

2 9. Named Defendants, and Does 1-10, may be collectively referred to as
3 “Defendants.”

4 10. Plaintiff is informed and believes and thereon alleges that some of Defendants
5 Does 1 through 3, inclusive, are manufacturers and/or vendors of garments to
6 Defendant, which DOE Defendants have manufactured and/or supplied and are
7 manufacturing and/or supplying garments comprised of fabric printed with
8 Plaintiff’s copyrighted design(s) (as hereinafter defined) without Plaintiff’s
9 knowledge or consent or have contributed to said infringement. The true
10 names, whether corporate, individual or otherwise, and capacities of defendants
11 sued herein as Does 1 through 3 are presently unknown to Plaintiff at this time,
12 and therefore, Plaintiff sues said defendants by such fictitious names. Plaintiff
13 will seek leave to amend this complaint to allege their true names and capacities
14 when the same have been ascertained. Plaintiff is informed and believes, and
15 based thereon alleges, that each of defendants designated as a DOE is
16 responsible in some manner for the events alleged herein and the damages
17 caused thereby.

18 11. Defendants DOES 4 through 12, inclusive, are other parties not yet identified
19 who have infringed Plaintiff’s copyrights, have contributed to the infringement
20 of Plaintiff’s copyrights, or have engaged in one or more of the wrongful
21 practices alleged herein. The true names, whether corporate, individual or
22 otherwise, and capacities of defendants sued herein as Does 4 through 10 are
23 presently unknown to Plaintiff at this time, and therefore, Plaintiff sues said
24 defendants by such fictitious names. Plaintiff will seek leave to amend this
25 complaint to allege their true names and capacities when the same have been
26 ascertained.

27 12. Plaintiff is informed and believes and thereupon alleges that at all times
28 relevant hereto each of Defendants acted in concert with each other, was the

1 agent, affiliate, officer, director, manager, principal, alter-ego, and/or employee
 2 of the remaining defendants and was at all times acting within the scope of such
 3 agency, affiliation, alter-ego relationship and/or employment; and actively
 4 participated in or subsequently rarified and adopted, or both, each and all of the
 5 acts or conducts alleged, with full knowledge of all the facts and circumstances,
 6 including without limitation to full knowledge of each and every wrongful
 7 conducts and Plaintiff's damages caused therefrom.

8 **CLAIMS RELATED TO DESIGN**

9 13.Plaintiff is the owner and author of a two-dimensional artwork under title "JIC-
 10 22" titled "SND1412-17" ("Subject Design"). (Exhibit A).

11 14.Plaintiff applied for a copyright from the United States Copyright Office for the
 12 Subject Design and was granted Registration No. VA 1-949-327 on February
 13 06, 2015. (Exhibit B).

14 15.Plaintiff formatted the Subject Design for use on textiles, sampled the Subject
 15 Design, and negotiated sales of fabric bearing the Subject Design.

16 16.Plaintiff is informed and believes and thereon alleges that, without Plaintiff's
 17 authorization, Defendant CICINDELAE purchased, sold, marketed, advertised,
 18 manufactured, caused to be manufactured, imported and/or distributed fabric
 19 and/or garments comprised of fabric featuring a design which is identical, or
 20 substantially similar to, the Subject Design. A true and correct copy of such a
 21 garments are attached hereto as Exhibit C. Said garments include but are not
 22 limited to garments sold by CICINDELAE.

23 17.At various times Defendant CICINDELAE owned and controlled offline and/or
 24 online retail stores, and each, Plaintiff's investigation revealed that garments
 25 comprised of fabric bearing the Subject Design were being offered for sale,
 26 garments which were manufactured and/or imported under the direction of the
 27 Defendants, and each of them.

1 18.Plaintiff is informed and believes and thereon alleges that, without Plaintiff's
2 authorization, Defendant DO GI KIM purchased, sold, marketed, advertised,
3 manufactured, caused to be manufactured, imported and/or distributed fabric
4 and/or garments comprised of fabric featuring a design which is identical, or
5 substantially similar to, the Subject Design. A true and correct copy of such a
6 garments are attached hereto as Exhibit C. Said garments include but are not
7 limited to garments sold by DO GI KIM.

8 19.At various times Defendant DO GI KIM owned and controlled offline and/or
9 online retail stores, and each, Plaintiff's investigation revealed that garments
10 comprised of fabric bearing the Subject Design were being offered for sale,
11 garments which were manufactured and/or imported under the direction of the
12 Defendants, and each of them.

13 20.Plaintiff is informed and believes and thereon alleges that, without Plaintiff's
14 authorization, Defendant DESIGN OF DK purchased, sold, marketed,
15 advertised, manufactured, caused to be manufactured, imported and/or
16 distributed fabric and/or garments comprised of fabric featuring a design which
17 is identical, or substantially similar to, the Subject Design. A true and correct
18 copy of such a garments are attached hereto as Exhibit C. Said garments
19 include but are not limited to garments sold by DESIGN OF DK.

20 21.At various times Defendant DESIGN OF DK owned and controlled offline
21 and/or online retail stores, and each, Plaintiff's investigation revealed that
22 garments comprised of fabric bearing the Subject Design were being offered for
23 sale, garments which were manufactured and/or imported under the direction of
24 the Defendants, and each of them.

25 22.Plaintiff is informed and believes and thereon alleges that, without Plaintiff's
26 authorization, Defendant YONG WOO KIM purchased, sold, marketed,
27 advertised, manufactured, caused to be manufactured, imported and/or
28 distributed fabric and/or garments comprised of fabric featuring a design which

1 is identical, or substantially similar to, the Subject Design. A true and correct
2 copy of such a garments are attached hereto as Exhibit C. Said garments
3 include but are not limited to garments sold by YONG WOO KIM.

4 23. At various times Defendant YONG WOO KIM owned and controlled offline
5 and/or online retail stores, and each, Plaintiff's investigation revealed that
6 garments comprised of fabric bearing the Subject Design were being offered for
7 sale, garments which were manufactured and/or imported under the direction of
8 the Defendants, and each of them.

9 24. None of the aforementioned transactions were authorized by Plaintiff, and all
10 were in violation of Plaintiff's intellectual property rights.

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12 **FIRST CLAIM FOR RELIEF**

13 (For Copyright Infringement – Against all Defendants, and Each)

14 25. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully
15 set forth the allegations contained in Paragraphs 1 through 18, inclusive, of this
16 Complaint.

17 26. Plaintiff is informed and believes and thereon alleges that Defendants, and each
18 of them, accessed the Subject Designs through, without limitation, the
19 following: (a) access to Plaintiff's design library; (b) access to authorized or
20 unauthorized reproductions in the possession of other vendors and/or DOE
21 Defendants; and (c) access to Plaintiff's strike-offs, swatches, paper CADs and
22 samples.

23 27. Plaintiff is informed and believes and thereon alleges that Defendants, and each
24 of them, infringed Plaintiff's copyright by importing, marketing, advertising,
25 creating, making and/or developing directly infringing and/or derivative works
26 from the Subject Design and by importing, producing, distributing and/or
27 selling infringing garments through a nationwide network of retail stores,
28 catalogues, and online websites.

1 28. Due to Defendants' acts of infringement, Plaintiff has suffered substantial
2 damages to its business in an amount to be established at trial.

3 29. Due to Defendants' acts of infringement, Plaintiff has suffered general and
4 special damages to its business in an amount to be established at trial.

5 30. Due to Defendants' acts of copyright infringement as alleged herein,
6 Defendants, and each of them, have obtained direct and indirect profits they
7 would not otherwise have realized but for their infringement of the Subject
8 Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits
9 directly and indirectly attributable to Defendants' infringement of the Subject
10 Design in an amount to be established at trial.

11 31. Plaintiff is informed and believes and thereon alleges that Defendants, and each
12 of them, have committed acts of infringement alleged herein with actual or
13 constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a
14 finding of willful infringement.

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17 **SECOND CLAIM FOR RELIEF**

18 (For Vicarious Copyright Infringement – Against All Defendants)

19 32. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully
20 set forth the allegations contained hereforeto, inclusive, of this Complaint.

21 33. Plaintiff is informed and believes and thereon alleges that Defendants, and each
22 of them, are vicariously liable for the infringement alleged herein because they
23 had the right and ability to supervise the direct infringing conduct by their
24 authority, ability, and/or control to request, change, suggest, or decline the
25 design featured on the Accused Garment.

26 34. Plaintiff is informed and believes and thereon alleges that the Defendants had a
27 direct financial interest in the infringer's activity by profiting from featuring the
28 desirable Subject Design on the Accused Garment while declining to exercise

1 their right and/or obligation to stop or limit the infringement by requesting,
 2 changing, or suggesting a different design or declining to buy the garment
 3 featuring the Subject Design.

4 35.By reason of the Defendants', and each of their, acts of vicarious infringement
 5 as alleged above, Plaintiff has suffered and will continue to suffer substantial
 6 damages to its business in an amount to established at trial, as well as additional
 7 general and special damages in an amount to be established at trial.

8 36.Due to Defendants' acts of vicarious copyright infringement as alleged herein,
 9 Defendants, and each of them, have obtained direct and indirect profits they
 10 would have not otherwise realized bur for their infringement of the Subject
 11 Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits
 12 directly and indirectly attributable to Defendants' infringement of the Subject
 13 Design, an amount to be established at trial.

14 37.Plaintiff is informed and believes and thereon alleges that Defendants, and each
 15 of them, have committed acts of infringement alleged herein with actual or
 16 constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a
 17 finding of willful infringement.

18 **THIRD CLAIM FOR RELIEF**

19 (Contributory Copyright Infringement– Against All Defendants)

20 38.Plaintiff repeats, re-alleges and incorporates herein by reference as though fully
 21 set forth the allegations contained hereforeto, inclusive, of this Complaint.

22 39.Plaintiff is informed and believes and thereon alleges that Defendants, and each
 23 of them, knowingly induced, caused, materially contributed to, participated in,
 24 encourages, aided and abetted in and resultantly profited from the illegal
 25 reproduction, importation, purchase, marketing, advertising, distribution and/or
 26 sales of product featuring the Subject Design as alleged herein above.
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1 40. By reason of the Defendants', and each of their, acts of contributory copyright
2 infringement as alleged above, Plaintiff has suffered and will continue to suffer
3 substantial damages to its business in an amount to be established at trial, as well
4 as additional general and special damages in an amount to be established at trial.

5 41. Due to Defendants' acts of contributory copyright infringement as alleged
6 herein, Defendants, and each of them, have obtained direct and indirect profits
7 they would have not otherwise realized but for their infringement of the Subject
8 Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits
9 directly and indirectly attributable to Defendants' infringement of the Subject
10 Design, an amount to be established at trial.

11 42. Plaintiff is informed and believes and thereon alleges that Defendants, and each
12 of them, have committed acts of infringement alleged herein with actual or
13 constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a
14 finding of willful infringement.

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17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff prays for judgment against all Defendants as follows:

19 **Against All Defendants**

20 With respect to Each Claim for Relief:

- 21 1. That Defendants, their agents and servants be enjoined from infringing
22 Plaintiff's copyrights in any manner;
23 2. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff,
24 the exact sum to be proven at time of trial as available under 17 U.S.C. §
25 504(b), or, if elected before final judgment, statutory damages as available
26 under the Copyright Act, 17 U.S.C. § 504(c);
27 3. That Plaintiff be awarded its attorneys' fees as available under the Copyright
28 Act, 17 U.S.C. § 101 *et seq.*;

- 1 4. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 2 5. That Plaintiff be awarded costs of litigation; and
- 3 6. That Plaintiff be awarded such further legal and equitable relief as the Court
- 4 deems proper.

5 **DEMAND FOR TRIAL BY JURY**

6 Plaintiff hereby demands a trial by jury in this action pursuant to Federal Rule of
7 Civil Procedure 38 and the Seventh Amendment of the Constitution.

8
9 Dated: June 12, 2017

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11 Respectfully submitted,

12
13 /s/ C. Yong Jeong
14 C. Yong Jeong, Esq.
15 Amy Choe, Esq.
16 Attorneys for Plaintiff,
17 JITRADE, INC.
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